

Jacques Morin on behalf
of Bayberry Construction
Company vs.

Joseph F. Cavanaugh, III, Esq.

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18CV00627

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CIVIL TRACKING ORDER (STANDING ORDER 1-88)	DOCKET NUMBER 1872CV00627	Trial Court of Massachusetts The Superior Court
CASE NAME Jacques Morin on behalf of Bayberry Construction Company vs. Joseph F Cavanaugh, III, Esq.		Scott W. Nickerson, Clerk of Court Barnstable County
o File Copy		COURT NAME & ADDRESS Barnstable County Superior Court 3195 Main Street Barnstable, MA 02630

TRACKING ORDER - A - Average

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

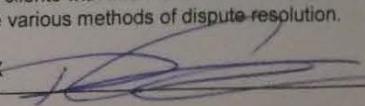
STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		02/13/2019	
Response to the complaint filed (also see MRCP 12)		03/15/2019	
All motions under MRCP 12, 19, and 20	03/15/2019	04/16/2019	05/14/2019
All motions under MRCP 15	01/09/2020	02/10/2020	02/10/2020
All discovery requests and depositions served and non-expert depositions completed	11/04/2020		
All motions under MRCP 56	12/04/2020	01/04/2021	
Final pre-trial conference held and/or firm trial date set			05/03/2021
Case shall be resolved and judgment shall issue by			11/15/2021

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time. Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service. This case is assigned to

DATE ISSUED 11/15/2018	ASSISTANT CLERK Scott W Nickerson	PHONE (508)375-6684
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CIVIL ACTION COVER SHEET		DOCKET NUMBER <i>1872CV627</i>	Trial Court of Massachusetts The Superior Court 												
PLAINTIFF(S): ADDRESS:	Jacques Morin on Behalf of Bayberry Construction Company 1436 Iyannough Road, Hyannis, MA	DEFENDANT(S): Joseph F. Cavanaugh, III, Esq.	COUNTY Barnstable SUPERIOR COURT BARNSTABLE, SS FILED NOV 15 2018 <i>Scott H. Clark Clerk</i>												
ATTORNEY: ADDRESS:	Darin M. Colucci, Esq. Colucci, Colucci, Marcus & Flavin, P.C., 424 Adams St., Milton, MA	ADDRESS:	2 Oak Street, Ste. 202, Mashpee, MA												
IBO:	563232														
TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)															
CODE NO. B07	TYPE OF ACTION (specify) Malpractice - Other	TRACK F	HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO												
If "Other" please describe: Legal Malpractice															
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A															
<p>The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.</p> <p style="text-align: center;">TORT CLAIMS (attach additional sheets as necessary)</p> <p>A. Documented medical expenses to date:</p> <table> <tbody> <tr><td>1. Total hospital expenses</td><td>\$</td></tr> <tr><td>2. Total doctor expenses</td><td>\$</td></tr> <tr><td>3. Total chiropractic expenses</td><td>\$</td></tr> <tr><td>4. Total physical therapy expenses</td><td>\$</td></tr> <tr><td>5. Total other expenses (describe below)</td><td>\$</td></tr> <tr><td colspan="2" style="text-align: right;">Subtotal (A): \$</td></tr> </tbody> </table> <p>B. Documented lost wages and compensation to date</p> <p>C. Documented property damages to date</p> <p>D. Reasonably anticipated future medical and hospital expenses</p> <p>E. Reasonably anticipated lost wages</p> <p>F. Other documented items of damages (describe below)</p>				1. Total hospital expenses	\$	2. Total doctor expenses	\$	3. Total chiropractic expenses	\$	4. Total physical therapy expenses	\$	5. Total other expenses (describe below)	\$	Subtotal (A): \$	
1. Total hospital expenses	\$														
2. Total doctor expenses	\$														
3. Total chiropractic expenses	\$														
4. Total physical therapy expenses	\$														
5. Total other expenses (describe below)	\$														
Subtotal (A): \$															
<p>Briefly describe plaintiff's injury, including the nature and extent of injury: Plaintiff had a business case that was viable. The Defendant failed to respond to discovery requests and the case was dismissed as a result.</p> <p style="text-align: right;">TOTAL (A-F): \$ <u>TBD</u></p> <p>CONTRACT CLAIMS (attach additional sheets as necessary)</p> <p>Provide a detailed description of claims(s): The parties had a contract for legal services. The Defendant was negligent in handling the matter and, as a result, the Plaintiff's case was dismissed.</p> <p>Date:</p> <p>Signature of Attorney/Pro Se Plaintiff: X</p> <p>RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.</p>															
<p style="text-align: center;">CERTIFICATION PURSUANT TO SJC RULE 1:18</p> <p>I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.</p> <p>Signature of Attorney of Record: X </p> <p style="text-align: right;">Date: Nov 6, 2018</p>															

FILED NOV 15 2018

Lorraine Clark

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

1872CV027

JACQUES MORIN ON BEHALF OF)
BAYBERRY CONSTRUCTION COMPANY)
Plaintiff.)
v.)
JOSEPH F. CAVANAUGH, III, ESQ.)
Defendant.)

)

COMPLAINT AND DEMAND FOR JURY TRIAL**Parties**

1. The plaintiff, Jacques Morin is the owner of Bayberry Construction Company with a principal place of business of 1436 Iyannough Road, Hyannis, Massachusetts.

2. The defendant, Joseph F. Cavanaugh, III, Esq., is a licensed attorney, practicing within the Commonwealth of Massachusetts with a usual place of business of 2 Oak Street, Ste. 202, Mashpee, Massachusetts.

Factual Allegations

3. In or around 2015 the plaintiff, Jacques Morin, on behalf of his company, Bayberry Construction (hereinafter "Bayberry") had dealings with a particular contractor, Clover Paving Company, to perform work as part of one of Bayberry's projects. The work was done in a substandard and unacceptable manner giving rise to a lawsuit.

4. In or around 2015 Jacques Morin on behalf of Bayberry hired Attorney Joseph F. Cavanaugh, III, Esq. to prosecute the aforementioned claims against Clover Paving Company.

5. Attorney Cavanaugh agreed to represent Mr. Morin and the plaintiff, Bayberry, and accepted legal fees for same. He instituted suit against Clover Paving Company in Barnstable court and began to prosecute the matter.

6. At some point during discovery, the original defendant, Clover Paving Company served written discovery requests upon Attorney Cavanaugh. Such requests are commonplace and to be expected in any type of litigation. Attorney Cavanaugh, however, failed to respond to these requests despite numerous extensions and delays. Eventually, Clover's counsel filed a 33(a) application, to which Attorney Cavanaugh did not respond. Based solely on his neglect, Barnstable Superior Court dismissed the case of Bayberry Building Company v. Clover Paving, Inc., Docket No. 1472CV00205.

7. Upon learning that the above-mentioned case had been dismissed, Attorney Cavanaugh filed a Motion for Reconsideration which was denied on September 22, 2017. In denying Attorney Cavanaugh's motion, the court clearly stated "Plaintiff presents nothing by way of evidence of excusable neglect. Plaintiff used Rule 33(a) as an offensive weapon against defendant and cannot effectively cry foul when the tables are now turned."

8. Since dismissal of the Bayberry v. Clover action, Attorney Cavanaugh has stopped accepting Mr. Morin's phone calls and inquiries and has attempted to avoid responsibility for his actions.

CAUSES OF ACTION

The plaintiff repeats and reavers all of the allegations contained in paragraphs one through eight above, as if expressly rewritten and set forth herein.

1. The plaintiff, Jacques Morin, on behalf of Bayberry Building Company, brings this action against Attorney Cavanaugh for negligence resulting in the plaintiff and the plaintiff's company incurring severe financial injury. The plaintiff seeks damages against the defendant for the first cause of action together with interests, costs and attorneys fees.

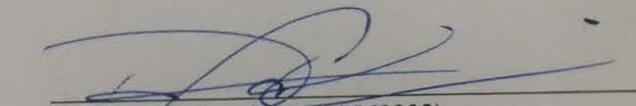
2. The plaintiff, Jacques Morin, on behalf of Bayberry Building Company, seeks damages against the defendant, Joseph F. Cavanaugh, III, Esq. for breach of contract resulting in plaintiff and plaintiff's business, Bayberry Building Company, incurring severe financial losses together with interests, costs and attorneys fees as to the second cause of action.

THE PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

The Plaintiff, Jacques Morin on behalf
of Bayberry Construction Company,
By his Attorneys,

COLUCCI, COLUCCI, MARCUS & FLAVIN, P.C.


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Dated: October 22, 2018